

Maine Revised Statutes
Title 22: HEALTH AND WELFARE
Chapter 558-C: maine medical use of marijuana act

§2423-A. AUTHORIZED CONDUCT FOR THE MEDICAL USE OF MARIJUANA

1. Qualifying patient. Except as provided in section 2426, a qualifying patient may:

A. Possess up to 2 1/2 ounces of prepared marijuana and an incidental amount of marijuana as provided in subsection 5; [2009, c. 631, §21 (NEW); 2009, c. 631, §51 (AFF).]

B. Cultivate, or designate a primary caregiver to cultivate under paragraph F, up to a total of 6 mature marijuana plants for that qualifying patient. The total number of mature marijuana plants per qualifying patient, whether cultivated by the patient or by a primary caregiver, may not exceed 6. In addition to the 6 mature marijuana plants, the patient who is cultivating the patient's own marijuana may have harvested marijuana in varying stages of processing in order to ensure the patient is able to maintain supply and meet personal needs. Two or more qualifying patients who are members of the same household and cultivating their own marijuana may share one enclosed, locked facility for cultivation; [2011, c. 407, Pt. B, §16 (AMD).]

C. Possess marijuana paraphernalia; [2009, c. 631, §21 (NEW); 2009, c. 631, §51 (AFF).]

D. Furnish or offer to furnish to another qualifying patient for that patient's medical use of marijuana up to 2 1/2 ounces of prepared marijuana if nothing of value is offered or transferred in return; [2011, c. 407, Pt. B, §16 (AMD).]

E. Designate one person, hospice provider or nursing facility as a primary caregiver to assist with the qualifying patient's medical use of marijuana in a standardized written document, developed by the department, signed and dated by the qualifying patient, including a one-year expiration and the signed acknowledgment of the primary caregiver that the primary caregiver may be contacted to confirm the designation of the primary caregiver. A 2nd person or hospice provider or nursing facility may be designated as a 2nd primary caregiver if the patient is under 18 years of age. The primary caregivers for a patient are determined solely by the patient's preference except that a parent, guardian or person having legal custody shall serve as a primary caregiver for a minor child; [2011, c. 407, Pt. B, §16 (AMD).]

F. Designate one primary caregiver or a registered dispensary to cultivate marijuana for the medical use of the patient, except that a hospice provider or a nursing facility that is designated as a primary caregiver by a patient and the staff of the provider or facility may not be designated to cultivate marijuana for the patient. The qualifying patient must designate the primary caregiver or registered dispensary to cultivate for the patient in a standardized written document, developed by the department, signed and dated by the qualifying patient, which must include a one-year expiration, the total number of mature plants the primary caregiver is designated to cultivate and the signed acknowledgment of the primary caregiver that the primary caregiver may be contacted to confirm the designation of the primary caregiver to cultivate for the patient and the number of mature plants to be cultivated and being cultivated for the patient or the signed acknowledgment of a person on behalf of the registered dispensary that the registered dispensary may be contacted to confirm the designation of the dispensary to cultivate for the patient and the number of mature plants to be cultivated and being cultivated for the patient; [2013, c. 396, §2 (AMD).]

G. Be in the presence or vicinity of the medical use of marijuana and assist any qualifying patient with using or administering marijuana; and [2013, c. 396, §3 (AMD).]

H. Accept excess prepared marijuana from a primary caregiver in accordance with subsection 2, paragraph H if nothing of value is provided to the primary caregiver. [2013, c. 396, §4 (NEW).]

[2013, c. 396, §§2-4 (AMD).]

2. Primary caregiver. Except as provided in section 2426, a primary caregiver, for the purpose of assisting a qualifying patient who has designated the primary caregiver as provided in subsection 1, may:

A. Possess up to 2 1/2 ounces of prepared marijuana and an incidental amount of marijuana as provided in subsection 5 for each qualifying patient who has designated the person as a primary caregiver; [2011, c. 407, Pt. B, §16 (AMD).]

B. Cultivate up to 6 mature marijuana plants for each qualifying patient who has designated the primary caregiver to cultivate marijuana on the patient's behalf, subject to the limitation in subsection 1, paragraph B on the total number of plants authorized per qualifying patient. A primary caregiver may not cultivate marijuana for a patient unless the patient has designated the primary caregiver for that purpose and the patient has not designated a registered dispensary to cultivate marijuana for the patient's medical use. In addition to the marijuana plants otherwise authorized under this paragraph, a primary caregiver may have harvested marijuana plants in varying stages of processing in order to ensure the primary caregiver is able to meet the needs of the primary caregiver's qualifying patients; [2011, c. 407, Pt. B, §16 (AMD).]

C. Assist a maximum of 5 patients who have designated the primary caregiver to cultivate marijuana for their medical use; [2013, c. 516, §6 (AMD).]

D. Receive reasonable monetary compensation for costs associated with assisting a qualifying patient who designated the primary caregiver; [2011, c. 407, Pt. B, §16 (AMD).]

E. Receive reasonable monetary compensation for costs associated with cultivating marijuana for a patient who designated the primary caregiver to cultivate marijuana; [2011, c. 407, Pt. B, §16 (AMD).]

F. Be in the presence or vicinity of the medical use of marijuana and assist any patient with the medical use, administration or preparation of marijuana; [2011, c. 407, Pt. B, §16 (AMD).]

G. Prepare food as defined in section 2152, subsection 4 containing marijuana, including tinctures of marijuana, for medical use by a qualifying patient pursuant to section 2152, subsection 4-A and section 2167; [2013, c. 516, §7 (AMD).]

H. For the purpose of disposing of excess prepared marijuana, transfer prepared marijuana to a registered dispensary, a qualifying patient or another primary caregiver if nothing of value is provided to the primary caregiver. A primary caregiver who transfers prepared marijuana pursuant to this paragraph does not by virtue of only that transfer qualify as a member of a collective; [2013, c. 588, Pt. A, §25 (RPR).]

I. Employ one person to assist in performing the duties of the primary caregiver; [2013, c. 588, Pt. A, §26 (AMD).]

(Paragraph I as enacted by PL 2013, c. 371, §3 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 2, PARAGRAPH J) (Paragraph I as enacted by PL 2013, c. 393, §3 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 2, PARAGRAPH K)

J. (REALLOCATED FROM T. 22, §2423-A, sub-§2, ¶I) Use a pesticide in the cultivation of marijuana if the pesticide is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered primary caregiver may not in the cultivation of marijuana use a pesticide unless the registered primary caregiver or the registered primary caregiver's employee is certified in the application of the pesticide pursuant to section 1471-D and any employee

who has direct contact with treated plants has completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. An employee of the registered primary caregiver who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230; and [2013, c. 588, Pt. D, §3 (AMD).]

K. (REALLOCATED FROM T. 22, §2423-A, sub-§2, ¶I) For the purpose of disposing of excess prepared marijuana, transfer prepared marijuana to a registered dispensary for reasonable compensation. The transfer of prepared marijuana by a primary caregiver to one or more dispensaries under this paragraph is limited to a registered primary caregiver. A registered primary caregiver may not transfer more than 2 pounds of excess prepared marijuana for reasonable compensation under this paragraph in a calendar year. A primary caregiver who transfers prepared marijuana pursuant to this paragraph does not by virtue of only that transfer qualify as a member of a collective. [.]

[PL 2013, c. 393, § 3 (NEW).]

[2013, c. 516, §§6, 7 (AMD); 2013, c. 588, Pt. A, §§25, 26 (AMD); 2013, c. 588, Pt. D, §3 (AMD).]

3. Cultivation of marijuana. The following provisions apply to the cultivation of marijuana by a qualifying patient under subsection 1 and a primary caregiver under subsection 2.

A. A patient who elects to cultivate marijuana plants must keep the plants in an enclosed, locked facility unless the plants are being transported because the patient is moving or taking the plants to the patient's own property in order to cultivate them. Access to the cultivation facility is limited to the patient, except that emergency services personnel or a person who needs to gain access to the cultivation facility in order to perform repairs or maintenance or to do construction may access the cultivation facility to provide those professional services while under the direct supervision of the patient. [2013, c. 374, §1 (AMD).]

B. A primary caregiver who has been designated by a patient to cultivate marijuana for the patient's medical use must keep all plants in an enclosed, locked facility unless the plants are being transported because the primary caregiver is moving or taking the plants to the primary caregiver's own property in order to cultivate them. The primary caregiver shall use a numerical identification system to enable the primary caregiver to identify marijuana plants cultivated for a patient. Access to the cultivation facility is limited to the primary caregiver, except that an elected official invited by the primary caregiver for the purpose of providing education to the elected official on cultivation by the primary caregiver, emergency services personnel or a person who needs to gain access to the cultivation facility in order to perform repairs or maintenance or to do construction may access the cultivation facility to provide those professional services while under the direct supervision of the primary caregiver. [2013, c. 501, §1 (AMD).]

C. A primary caregiver designated to cultivate marijuana for a qualifying patient is required to register with the department, except that the following primary caregivers are not required to register:

- (1) A primary caregiver designated to cultivate for a qualifying patient if that qualifying patient is a member of the household of that primary caregiver;
- (2) Two primary caregivers who are qualifying patients, if those primary caregivers are members of the same household and assist one another with cultivation; and
- (3) A primary caregiver who cultivates for a qualifying patient if that qualifying patient is a member of the family of that primary caregiver. [2011, c. 407, Pt. B, §16 (NEW).]

D. Two primary caregivers who are members of the same family or household may share the same enclosed, locked facility. [2011, c. 407, Pt. B, §16 (NEW).]

E. A person who is authorized to cultivate marijuana under subsection 1 or 2 and who is employed by a primary caregiver pursuant to subsection 2, paragraph I may not cultivate that person's own marijuana in the location used for cultivation by the primary caregiver who employs that person. [2013, c. 396, §8 (NEW).]

[2013, c. 501, §1 (AMD) .]

4. Hospice provider or nursing facility. A registered patient may name a hospice provider licensed under chapter 1681 or a nursing facility licensed under chapter 405 to serve as a registered primary caregiver. If a hospice provider or nursing facility is named as a primary caregiver, the provider or facility shall complete the registration process with the department and obtain a primary caregiver registration card and the staff of the provider or facility shall obtain registry identification cards. To be issued a registry identification card, a staff person of a hospice provider or nursing facility that has been named as a primary caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. The hospice provider or nursing facility and the staff of the provider or facility may not cultivate marijuana for the patient.

[2009, c. 631, §21 (NEW); 2009, c. 631, §51 (AFF) .]

4-A. Use and storage in inpatient hospice facility or nursing facility permitted. A qualifying patient who is a resident of a hospice provider facility licensed under chapter 1681 or nursing facility licensed under chapter 405, while in the hospice provider facility or nursing facility, may use forms of prepared marijuana that are not smoked, including, but not limited to, vaporized marijuana, edible marijuana and tinctures and salves of marijuana. A qualifying patient who uses a form of prepared marijuana pursuant to this subsection may store the prepared marijuana in the qualifying patient's room and is not required to obtain a registry identification card or to designate the hospice provider or nursing facility as a primary caregiver under subsection 4. A hospice provider or nursing facility is not required to be named as a primary caregiver by a qualifying patient who uses prepared marijuana pursuant to this subsection. This subsection does not limit the ability of a hospice provider or nursing facility to prohibit or restrict the use or storage of prepared marijuana by a qualifying patient.

[2013, c. 520, §1 (NEW) .]

5. Incidental amount of marijuana. For purposes of this section, any incidental amount of marijuana is lawful for a qualifying patient or a primary caregiver to possess and is not included in the amounts of prepared marijuana specified in this section.

[2011, c. 407, Pt. B, §16 (AMD) .]

6. Onsite assessments by the department.

[2011, c. 407, Pt. B, §16 (RP) .]

7. Excess marijuana; forfeiture. A person who possesses marijuana seedlings, marijuana plants or prepared marijuana in excess of the limits provided in this section and rules adopted under this section must forfeit the excess amounts to a law enforcement officer. The law enforcement officer is authorized to remove all excess marijuana seedlings, marijuana plants and prepared marijuana in order to catalog the amount of excess marijuana. Possession of marijuana in excess of the limits provided in this section and rules adopted under this section is a violation as follows:

A. Possession of marijuana in an excess amount up to 2 1/2 ounces is a violation of section 2383; and [2011, c. 383, §1 (NEW).]

B. Possession of marijuana in an excess amount over 2 1/2 ounces is a violation of Title 17-A, chapter 45. [2011, c. 383, §1 (NEW).]

(Subsection 7 as enacted by PL 2011, c. 407, Pt. B, §16 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 9)

[2011, c. 383, §1 (NEW) .]

8. Repeat forfeiture. If a cardholder has previously forfeited excess marijuana pursuant to subsection 7 and a subsequent forfeiture occurs, the department shall revoke the registry identification card of the cardholder and the entire amount of marijuana seedlings, marijuana plants and prepared marijuana must be forfeited to a law enforcement officer. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 383, §1 (NEW) .]

9. (REALLOCATED FROM T. 22, §2423-A, sub-§7) Collectives prohibited. Collectives are prohibited under this chapter. A person may not form or participate in a collective.

[2011, c. 1, §31 (RAL) .]

SECTION HISTORY

2009, c. 631, §21 (NEW). 2009, c. 631, §51 (AFF). RR 2011, c. 1, §31 (COR). 2011, c. 383, §1 (AMD). 2011, c. 407, Pt. B, §16 (AMD). RR 2013, c. 1, §§39, 40 (COR). 2013, c. 371, §§1-3 (AMD). 2013, c. 374, §1 (AMD). 2013, c. 393, §§1-3 (AMD). 2013, c. 396, §§2-8 (AMD). 2013, c. 424, Pt. G, §1 (AMD). 2013, c. 424, Pt. G, §2 (AFF). 2013, c. 498, §1 (AMD). 2013, c. 501, §1 (AMD). 2013, c. 516, §§6, 7 (AMD). 2013, c. 520, §1 (AMD). 2013, c. 588, Pt. A, §§25, 26 (AMD). 2013, c. 588, Pt. D, §3 (AMD).

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